



HOUSE BILL 909: Various Local Provisions I.

2023-2024 General Assembly

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| Committee: | Senate State and Local Government. If favorable, re-refer to Finance. If favorable, re-refer to Rules and Operations of the Senate | Date: | June 19, 2024 |
| Introduced by: | Rep. Paré | Prepared by: | Nicholas Giddings, Jessica Sammons, Erika Churchill Staff Attorneys |
| Analysis of: | PCS to Second Edition H909-CSSTxfr-63 | | |

OVERVIEW: *The proposed committee substitute (PCS) for House Bill 909 would make various changes to multiple local acts.*

CURRENT LAW and BILL ANALYSIS:

Corporate Boundaries: (Fuquay-Varina, High Point, Kannapolis, Mount Gilead, Summerfield, Washington)

Under Section 1 of Article VII of the NC Constitution, the General Assembly is empowered to "provide for the organization and government and the fixing of boundaries of counties, cities and towns, and other governmental subdivisions, and, except as otherwise prohibited by this Constitution, may give such powers and duties to counties, cities and towns, and other governmental subdivisions as it may deem advisable." Pursuant to this Section, the General Assembly enacted Article 4A of Chapter 160A of the General Statutes which governs annexations by municipalities. In addition, the General Assembly may annex property by local act. However, the General Assembly has not enacted any method for municipalities to deannex property; only the General Assembly may deannex property.

The PCS would, effective June 30, 2024, remove certain described property from the corporate limits of the following municipalities:

- Fuquay-Varina, Section 1.
- Kannapolis, Section 6.
- Summerfield, Section 10.
- Washington, Section 11.

The PCS would, effective June 30, 2024, add certain described property to the corporate limits of the City of High Point. Section 4.

The PCS would, effective June 30, 2025, add certain described property to the corporate limits of the Town of Mount Gilead. Section 8.

Jeffrey Hudson
Director



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Wake County Bureau of Identification: (Section 2)

The Wake County Bureau of Identification (Bureau) was originally created in 1937, and amendments were made in 1961, 1975, 1977, and 1987. Since 1937 and continuing with this restatement, the Bureau's duties include fingerprinting and photographing all persons arrested in Wake County and providing crime scene examination and other forensic services.

The PCS would revise and rewrite the local provisions governing the Bureau, consolidating the provisions into one location.

ABC Profit Distribution: (Concord, Section 3)

Chapter 18B of the General Statutes controls the regulation of alcoholic beverages. G.S.18B-805(b)-(e) provide for the distribution of local ABC revenue in the following priority:

- **Subsection (b)** – Primary distributions.
- **Subsection (c)** – Secondary distributions, including a mandatory amount for law enforcement of at least 5% which is required of all local boards regardless of the provisions of any local act.
- **Subsection (d)** – Retention of revenue for working capital.
- **Subsection (e)** – Local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established unless some other distribution is provided for by law.

Section 5.14 of the Charter of the City of Concord outlines the City's distribution of ABC revenue. The Charter provides that after the payment of all costs and operating expenses and after retaining a sufficient working capital, the first 15% of the remaining net profits must be distributed for law enforcement. Of the remaining balance, 25% goes to Cabarrus County and 75% goes to the City of Concord.

The PCS would change the distribution of Concord ABC revenue so that after payment of all costs and operating expenses, the first 5% of remaining revenue would be paid for law enforcement, followed by the retention of any revenue for working capital. Of the remaining balance, 25% would still go to Cabarrus County and 75% would go to the City of Concord.

G.S. 18B-805(c)(2) requires that at least 5% of revenues that remain after certain priority distributions must be distributed for law enforcement. Any retention of revenue for working capital comes from revenue remaining after distributions required under G.S. 18B-805(b) and (c). Therefore, as the PCS would reduce the amount distributed for law enforcement to 5%, the distribution for law enforcement must come before the retention of revenue for working capital to comply with the statutory requirements.

Real Property Disposal: (High Point, Section 5)

Local governments generally dispose of real and personal property in accordance with the procedures established by Article 12 of Chapter 160A. Subject to certain conditions for each method, a local government can dispose of real or personal property by any of the following means:

- Private negotiation and sale.
- Advertisement for sealed bids.
- Negotiated offer, advertisement, and upset bid.
- Public auction.
- Exchange.
- Lease.

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The PCS would authorize the City of High Point to convey real property without need to comply with Article 12 of Chapter 160A of the General Statutes, if the City Council approves the sale, exchange, or transfer of the fee or any lesser interest in real property either by public sale or by negotiated private sale, conditioned upon any covenants, conditions, or restrictions, or combinations thereof, to the transfer. Any transfer under this authority must be in furtherance of adopted City policies or plans for the area, and must be done by resolution adopted by the City Council. At least 10 days prior to adoption of the resolution, notice by publication of the proposed transaction must be given by the City. The notice by publication must do all of the following:

- Describe the property involved; the nature of the interest to be conveyed; and all the material terms of the proposed transaction.
- Provide the time and place of the City Council meeting where the proposed transaction will be considered.
- Announce the City Council's intention to authorize the transaction.

The terms of the conveyance may include any of the following:

- The consideration received by the City for the conveyance may reflect the restricted use of the property resulting from the restrictions.
- The City may invite bids or written proposals, including development plans and site plans, for the purchase of the property or property interest.
- The sale or transfer of property, or an interest in property, may be made contingent upon necessary rezoning of the property.

Extraterritorial Jurisdiction: (Kings Mountain, Section 7)

Except under certain circumstances, a municipality may regulate land use within an area beyond its corporate limits, commonly referred to as extraterritorial jurisdiction (ETJ). Land use regulations include zoning, subdivision regulation, building code enforcement, minimum housing code enforcement, historic preservation, erosion and sedimentation control regulation, and historic district regulation.

The PCS would, effective October 1, 2024, limit the ETJ authority of the City of Kings Mountain to one mile from its contiguous corporate boundaries.

Vacancies on City Councils: (Stanley, Section 9)

Vacancies occurring on a municipal council are filled in accordance with G.S. 160A-63. According to G.S. 160A-63, vacancies occurring in a municipal elected office are filled by the governing board. If the term of office of the vacating officer expires immediately after the next municipal election or if the next municipal election occurs within 90 days of the vacancy, the governing board appoints an individual to serve the unexpired term. Otherwise, the governing board appoints an individual to serve only until a successor is elected, and the elected successor serves the remainder of the unexpired term.

The PCS would provide that if a vacancy occurs on the Stanley Town Council, the vacancy would be filled by the remaining members of the Stanley Town Council, with the appointee serving for the remainder of the unexpired term, regardless of when the term of office of the vacating member expires.

EFFECTIVE DATE: Except as noted above, effective when it becomes law.